

TITLE AND PURPOSE

Name and Citation of Title.

This title shall be known, referred to and cited as "the land subdivision ordinance" of the Village of Malcolm.

Purpose.

This title is to provide for the harmonious development of Malcolm and its environs; to prescribe standards for the laying out of subdivisions in harmony with the comprehensive plan; for the coordination of streets and utilities within subdivisions with other existing or planned streets and utilities; for coordination of subdivisions with other features of the comprehensive plan to provide for adequate open space for traffic, recreation, light and air; and for the distribution of population and traffic in such manner so as to create conditions favorable to health, safety, convenience or prosperity, all in accordance with applicable state statutes.

DEFINITIONS

Definitions; General.

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and applicable, the definition of each word or phrase which is derivative from it, or from which it is derivative, as the case may be. All words in the singular shall include the plural, and in the plural the singular. Each gender shall include the other. Each tense shall include the other tenses.

Alley.

Alley shall mean a public way not designed for general travel or to allow through vehicular traffic, used as a secondary access to the rear or side of lots, which shall in no way be a street.

Village.

Village shall mean the Village of Malcolm, Nebraska, and official acts of the Village Clerk and Village Board.

Board.

Board shall mean the Malcolm Village Board.

Village Clerk.

Village Clerk shall mean the Village Clerk of the Village of Malcolm.

Code.

Code shall mean the Malcolm Municipal Code.

Community Wastewater System

Community wastewater system means any system, whether publicly or privately owned, serving two or more lots, for the collection and treatment of wastewater or industrial wastes of liquid nature, including various devices for the treatment of such wastewater or industrial wastes.

Community Water System

Community water system means any system, including various devices to collect, treat, store, and distribute the water, whether publicly or privately owned, serving two or more lots, supplying an adequate amount of potable water to the occupant of the lots or lots.

Comprehensive Plan.

The comprehensive plan shall mean the general plan for the improvement and development of the village adopted as required by the applicable charter provision or state statute.

Corner Lot.

Corner lot means a lot which has frontage on two intersecting streets.

Double Frontage Lot.

Double frontage lot means a lot which has frontage on two nonintersecting streets.

Flood Plain.

Flood plain shall mean those lands within the zoning jurisdiction of the Village of Malcolm which are subject to a one percent or greater chance of flooding in any given year. The regulator flood plain for this title shall be based on the official flood insurance rate and flood boundary and floodway map issued by the federal emergency management agency and any revision thereto. Copies of the said maps shall be on file in the office of the Village Clerk.

Frontage.

Frontage means that portion of a parcel of property which abuts on a public street; provided, however, that the end of a temporary dead-end street shall not be considered frontage.

Health Department.

Health Department shall mean the Lincoln-Lancaster County Health Department.

Individual Wastewater System.

Individual wastewater system means a wastewater system, other than a public or community system, which receives either human excreta or liquid waste, or both from no more than one lot. Included within the scope of this definition are wastewater stabilization ponds, septic tank soil-absorption systems, chemical-type systems, and such other types of systems as may be similar to those specified herein.

Individual Water Well System.

Individual water well system means a water system, including various devices to supply the water, other than a public or community water system, which supplies adequate potable water to no more than one lot.

Lot.

Lot means: (a) A portion of real property containing at least the area required, at the time it was created, by the zoning district in which it is or was located, abutting at least one public street or private roadway, or

(b) A parcel of real property with a separate and distinct number or other designation shown on a final plat approved by the Village or by the Lancaster County Board recorded in the office of the Register of Deeds for Lancaster County, Nebraska.

Minimum Flood Corridor.

Minimum flood corridor shall mean the existing channel bottom width plus 60 feet plus six times the channel depth and the corridor will be centered on the channel.

Outlot.

A parcel of real property having the same definition as a "lot" as defined hereinbefore, but not presently designated for building or occupancy, reserved for future building or occupancy after platting and subdivision, or reserved for open space and common facilities, which present and proposed future use must be designated by the subdivider at the time of filing of the initial plat.

Private Roadway.

Private roadway shall mean a designated area on an approved special permit, use permit, or subdivision, that is privately owned and that is used or intended to be used for the principal purpose of serving as vehicular access to abutting property.

Subdivision.

Subdivision shall mean the division of a lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of ownership of building development, except that the division of land shall not be considered to be a subdivision when the smallest parcel created is more than ten acres in area.

The conveyance of portions of vacated or abandoned right-of-way by a governmental entity to abutting property owners shall not be considered subdivision when the right-of-way so vacated or abandoned is to be used only in combination with such abutting property. The vacated or abandoned right-of-way may not thereafter be devoted to a separate use without complying with all otherwise applicable requirements for lots within the zoning district in which such former right-of-way is situated.

Temporary Turnaround.

Temporary Turnaround shall mean a surfaced area for the turning of vehicles at the end of a temporary dead-end street.

Cul-de-sac.

Cul-de-sac means a local street which terminates in a permanent turnaround and which by design is not intended to continue beyond it's terminal point.

Temporary Dead-end Street (Stub Street).

Temporary dead-end street shall mean a street which is terminated at the boundary line of the subdivision, but which will be required to be extended at a later date to provide access to abutting land.

PROCEDURE FOR PROCESSING SUBDIVISIONS

Subdivision; When Required.

(a) It shall be unlawful for the owner, agent or person having control of any land within the corporate limits of the village, or within one mile of its corporate limits to subdivide land except in accordance with Neb. Rev. Stat. §§17-405 and 17-1002 and the provisions of this title; provided, however, that any subdivision of land caused by the acquisition of land by the federal government, the State of Nebraska, any natural resources district, any county, or the Village, shall be deemed to have received approval as required by Neb. Rev. Stat. §17-1002. This provision shall apply to all such subdivisions occurring both before and after the effective date of this section.

(b) The conveyance of portions of abandoned railroad right-of-way by a railroad or a subsequent owner of such right-of-way to abutting property owners shall not be required to comply with the otherwise applicable requirements of this title. Any such conveyance must join the right-of-way to a lot which abuts at least a portion of the conveyed right-a-way. Any such right-a-way so conveyed may not thereafter be separately conveyed or devoted to a separate use without complying with all otherwise applicable requirements for lots within the zoning district in which such right-of-way is situated.

(c) The conveyance of portions of property that have been declared surplus by any governmental agency shall not be required to comply with the otherwise applicable requirements of this title. For purposes of this subsection, a governmental agency shall include the federal government, the State of Nebraska, any natural resources district, any county, and the Village of Malcolm. Any such surplus property so conveyed may not thereafter be separately conveyed or devoted to a separate use without complying with all otherwise applicable requirements for lots within the zoning district in which such surplus property is situated.

Administrative Plat.

The Board is hereby empowered to administratively approve the plat of a subdivision under the following conditions:

(a) No new street or private roadway is accepted or needed within the area of the new

lots, except in the sole discretion of the Board, private roadways which will serve only the proposed subdivision may be accepted within industrial or commercial districts when the Board is satisfied that public streets are not desirable or necessary, every lot fronts upon and takes access to the private roadway or public street, adequate internal circulation exists, village design standards for private roadways are met, and provisions have been made for the proper continuous maintenance of the roadway in accordance with the provisions of this title.

(b) Required easements for utilities, drainage, and any other improvement as found in this title shall be provided. If proper provisions for any required utility, drainage, and any other improvement as found in this title cannot be made, the administrative plat shall be disapproved.

(c) The Village Clerk may require the posting of bonds or an escrow or security agreement approved by the Village Attorney in an amount sufficient to guarantee the installation of required improvements as found in this title. Said improvements shall be completed within the same time limits as allowed for plats requiring Board approval.

(d) The subdivider shall submit such information as set forth in the following Sections of this title, and as specified by the Village Clerk: Information on a Preliminary Plat; Information on or Accompanying a Preliminary Plat; Additional Required Information.

(e) Where individual water or wastewater systems are proposed to serve any of the proposed lots, the Health Department must approve the system, and all plans and information required by the Health Department shall be provided by the subdivider.

(f) (1) Prior to the approval of the administrative plat, the subdivider shall provide a statement from the County Treasurer's office showing there are no tax liens against said land within the proposed subdivision or any part thereof. The subdivider shall also provide a statement from the Village Treasurer's office showing that all special assessment installment payments are current as applied to said proposed subdivision or any part thereof. All taxes shall be paid in full on all real property dedicated to a public use.

(2) In the event of any proposed dedication for public use, a certificate of title or a title opinion issued to or for the benefit and protection of the village showing all parties whose consent is necessary to pass clear title for the land being subdivided and dedicated, together with the nature of their interests therein, shall be furnished. Such proof of title shall be in a form acceptable to the Village Attorney. Any subsequent change affecting ownership of the proposed subdivision or any part thereof shall be made only upon the prompt notification and certification to the village of said change in ownership. The village shall assume no responsibility for any title problem with said proposed subdivision or any part thereof, and approval of said subdivision shall not be construed as approval of the title of the proposed subdivision or any part thereof.

(g) The administrative plat shall be in accordance with the comprehensive plan except that there shall be no dedication of land required for street right-of-way purposes under the following conditions:

(1) The land involved in the administrative plat has previously been subdivided or platted in accordance with the then applicable subdivision ordinances and procedures of the village.

(2) The maximum lot size for any one lot created by the proposed administrative plat does not exceed 15,000 square feet.

(h) The administrative plat shall be in accordance with all the development standards of

this title, except that a lot may have a maximum depth of five times its width under the following conditions:

(1) The land involved in the administrative plat is zoned Industrial or Industrial Park districts.

(2) The minimum lot frontage of lots created by the proposed administrative plat is 100 feet or more.

(i) The subdivider shall pay to the village a filing fee of \$200.00 for each administrative plat application, plus a unit fee of \$2,250.00 per proposed lot. Should the subdivider request a modification of the requirements for subdivision approval, an additional fee of \$200.00 shall accompany the request. The land within each application shall be adjacent.

(j) The subdivider shall submit an accurately drawn plat showing the proposed lots including the length of each lot line and its angle of deflection. Affixed to the plat shall be a certificate signed by a registered land surveyor certifying that each proposed lot has been accurately surveyed and that each lot corner has been well and accurately staked and marked.

(k) The form of the administrative plat shall be as provided in Chapter Final Plat except the approval certificate will be signed by the Board and certification by the Board and Village Clerk will not be required.

(l) The subdivider shall provide in form acceptable to the Village Attorney his or her agreement to pay all fees of the Village for the review of the subdivision application. Such fees shall include the fees of the Village Attorney and Village Engineer or other consultant or professional hired by the Village to review the proposed administrative plat.

Filing Preliminary Plat With Board

Except as provided in Section Administrative Plat, a preliminary plat and final plat shall be required for all subdivisions. The subdivider shall file with the Board copies of the preliminary plat in the form hereinafter provided, together with copies of the owners' statement and accompanying data, the number of copies to be determined by the Board. The time of filing such preliminary plat shall be the time said plat and accompanying data is received in the Board's office. Following the first Board Meeting after receipt of said preliminary plat and accompanying data, the Board shall distribute copies of the preliminary plat and owner's statement and accompanying data to governmental agencies, the Village Engineer, the Village Attorney, and such other professionals as reasonably prudent for review of the proposed subdivision. When a change of zone, special permit, use permit, or planned unit development is required, such application shall accompany the filing of the preliminary plat.

Review of Preliminary Plat

The following shall be the method of processing preliminary plats:

(a) Each governmental agency, the Village Engineer, the Village Attorney, and such other professionals directly concerned with the proposed subdivision shall, at the next Village Board Meeting after no less than fifteen days from receipt of a copy of the preliminary plat, file with the Board its approval of said plat or a report indicating in what manner such preliminary plat does not conform to the requirements of this title and all other rules, regulations, and standards adopted pursuant to this title over which such department has administrative

responsibility. The preparer of any report not timely filed with the Board shall forward such report to the subdivider, and submit such report to the Board with a statement explaining the reasons for the delay in the filing of the required report.

(b) After the receipt of department, professional and governmental reports, the Board shall notify the subdivider in writing of the recommended approval, conditional approval, or disapproval of the preliminary plat based upon a review of the recommendations of various professionals and the Board's own review of the design of the subdivision, and shall designate the improvements which will be required under the provisions of this title before approval of the preliminary plat is granted.

(c) If the recommendation is for conditional approval or disapproval, the Board shall submit to the subdivider a statement of the reasons for such recommendation and indicate the revisions necessary to secure a recommendation of approval. One copy of the preliminary plat together with a copy of the Board's statement shall be permanently filed in the Board's office. A copy of the Board's statement shall be distributed to various departments, professionals, and governmental agencies as necessary.

(d) The approval or conditional approval of the preliminary plat by the Board does not constitute an approval of the subdivisions.

Preliminary Flat Fee.

The following fees to the Village shall accompany the filing of the preliminary plat:

- (a) Filing fee of \$400.00;
- (b) Unit fee of \$2,250.00 per lot;
- (c) Notification fee of \$100.00.

Hearing on Preliminary Plat.

Hearing of the preliminary plat shall be held before the Board at a regular meeting following completion by the subdivider of the procedures in Sections Review of Preliminary Plat and Modification of Procedures. However, no hearing shall be held by the Board until:

(a) A notice of the time and place of the hearing is printed in a daily newspaper of general circulation within the county at least eight days prior to the date of the hearing;

(b) A notice shall be posted in a conspicuous place on or near the property being subdivided, stating that the Board will hold a hearing on the proposal to subdivide the property. Said notice shall be posted at least eight days in advance of the hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change the posted notice prior to the hearing time; and

(c) The Board shall cause notice of the hearing on the preliminary plat to be sent to the record owners of property located within 200 feet of the property upon which action is pending when such owners' property is located within the corporate limits of the Village and to the record owners of property within one-fourth mile of the property upon which action is pending when such owners' property is located outside the corporate limits of the Village at the address as it appears on the last equalized assessment roll of the county or as known to the Board. The notice shall be sent by regular United States mail, postage prepaid, at least ten days before the Board's first public hearing; provided that no decision or recommendation which the Board is required to

make shall be void or invalidated or affected in any way, for any irregularity, defect, error, or failure on the part of the Board to cause notice to be given to each owner of record.

Board Action on Preliminary Plat.

If after public hearing the Board finds the proposed preliminary plat complies with the requirements of this title, it shall approve the preliminary plat. The approval of the preliminary plat shall not constitute authority for the subdivider to sell the individual lots.

If a government agency, other than the Village, which is directly concerned with the proposed subdivision with respect to schools, parks, playgrounds, fire stations, libraries, and other common areas for public use, failed to file with the Board its approval of or a report on the preliminary plat, the Board may withhold its approval or disapproval of the preliminary plat until such agency's approval or report is filed.

If after public hearing the Board finds that the proposed preliminary plat does not satisfy the requirements of this title, it shall specify in writing in the minutes of the hearing objections to the proposed preliminary plat. The Board may disapprove or approve the proposed preliminary plat upon the condition that the subdivider makes specific changes in the proposed preliminary plat which will remove the objections and bring the proposed preliminary plat into compliance with this title.

One copy of the proposed preliminary plat, together with a copy of the findings of the Board after public hearing, shall be submitted to the Village Clerk, and the person offering the proposed preliminary plat following the action by the Board. One copy of the proposed preliminary plat and findings shall be retained by the Board as part of its official records.

Any aggrieved person may appeal any action of the Board by filing notice of appeal with the Village Clerk within fourteen days following the action by the Board.

The preliminary plat shall only be effective for a period of ten years from the date of the village's approval, and shall be of no force or effect thereafter. If any final plat on all or a portion of the approved preliminary plat is submitted five years or more after the effective date of the preliminary plat, the village may require that a preliminary plat be submitted, pursuant to all the provisions of this chapter. A new preliminary plat may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the village; and as a result, the preliminary plat as originally approved does not comply with the amended rules and regulations.

Authority to Proceed With Improvements.

After submittal of a proposed preliminary plat to the Village Clerk, the Village Clerk shall cause the proposed preliminary plat to be placed on the agenda of the Board for approval by the Board by resolution. Receipt by the subdivider of approval of the preliminary plat and acceptance by the Board shall constitute authority for the subdivider to proceed with plans, profiles, and specifications for the grading and land preparation, presentation of the final plat to the Board, and the installation of the required improvements, except street lighting and street name signs. No person shall engage in the grading or disturbance of any land greater than two acres in size without first submitting a drainage and grading plan setting forth the requirements of the design standards applicable to stormwater management, erosion, and sedimentation control

and obtaining approval of said plan. Any person who engages in the grading or disturbance of any land in violation of the provisions contained in this section shall be subject to an order to cease and desist such grading work. No utility or improvement shall be installed or construed until the area to be developed has been graded and the subdivider's licensed surveyor or engineer has submitted a written statement with the seal of the professional to the Board that the grading and shaping of the land to be developed has been completed in conformance with the grading shown on the preliminary plat, the drainage study, and the final street grades. The Board may approve the grading, installation, and construction in phases. Also, no utility or improvement shall be installed or constructed until the plans, and if appropriate profiles and specifications, are prepared by the appropriate village consultants and other governmental agencies required by law, and approval is granted. Plans, and if appropriate profiles and specification, for street surfacing, sidewalks, public water systems, public wastewater systems, storm drains, and drainage systems, land preparation and grading, and temporary turnarounds not prepared by the village engineering consultants shall be submitted to the Board for approval. Plans, profiles, and specifications for community water systems and community wastewater systems shall be reviewed and approved pursuant to Section Installation of Improvements of this title. Individual water well systems and individual wastewater systems shall be submitted to the Health Department for approval. Plans and specifications for electrical distribution systems and street lighting shall be prepared by the appropriate electrical utility company unless the subdivider requests and receives permission from the appropriate electrical utility company to use a private consulting engineer, then the plans and specifications shall be submitted to the appropriate electrical utility company for approval. The plans and specifications for street name signs shall be prepared by the Board. The plans and specification for the grading and land preparation, paving, street surfacing, public water system, public wastewater system and storm drains shall be prepared by a professional engineer or architect registered in the State of Nebraska.

Installation of utilities and improvements may be allowed on all or a portion of the proposed subdivision prior to the approval of the final plat. Street surfacing, public water systems, public wastewater systems, public street lighting, and storm drainage systems shall not be installed or constructed until authorized by the Board.

The design and installation of each utility and other improvements shall be in strict accordance with the design standards for that utility or other improvement. Design standards for utilities and other improvements shall be on file with and available from the Village Clerk or the Village Engineer..

Requisites for Final Plat Approval.

Before any final plat may be approved, provisions for the installation of the minimum improvements set out in Chapter Minimum Improvements shall be made in one of the following manners:

(a) Improvements have been installed and approved. This is the only method available for community wastewater systems and community water systems.

(b) Petitions for assessment districts and if necessary formal petitions with required signatures, have been filed with the Board. Such assessment districts may be created for public improvements within the corporate limits of the village at the option of the village, and shall be

used for only the completion of street paving, public water systems, and street lighting. Provided, however, the approved final plat shall not be recorded in the office of the Register of Deeds until the village has created all such petitioned assessment districts.

(c) A bond, escrow, or security agreement approved by the Village Attorney has been furnished in an amount sufficient to guarantee the installation of the required improvements.

(d) An agreement is signed by the subdivider guaranteeing that the improvement is completed within a time specified by the village. However, this alternative is available only for individual wastewater systems, individual water well systems, and the completion of land preparation.

Prior to the approval of the final plat, the appropriate village department shall estimate the costs of completing the improvements. The amount of the bonds or escrow or security agreement shall be established by the village and may be increased or decreased according to current conditions. If the amount of the bond or escrow or security agreement is less than the actual cost of the installation of the improvements, the subdivider shall be responsible for the payment of any such additional costs of the improvements. No surety bond or other security shall be accepted unless:

- (1) It is enforceable by or payable to the village;
- (2) It provides that any extension of time, changes, alteration, or addition, which may be approved by the village for construction or completion of the improvement for which the bond is given, shall in no manner affect or relieve the obligation of the surety, regardless of whether or not the surety is given notice of any such extension of time, change, alteration, or addition;
- (3) It cannot be terminated without written authorization of the Mayor;
- (4) It is written by a corporate surety company authorized to do business in the State of Nebraska, or approved security deposits have been made to an institution licensed to do business in the State of Nebraska; and
- (5) It is a form with surety and conditions approved by the Village Attorney.

Installation of Improvements.

Improvements shall be installed as follows:

(a) Sidewalks within streets and those trees not included in a land scape screen within four years of final plat approval; provided, however, when sidewalks have been constructed on seventy percent or more of the frontage along a major street between two street intersections, the remaining sidewalk therein shall be constructed.

(b) Sidewalks within pedestrian ways at the same time the adjacent streets in the final plat are surfaced.

(c) Street lights on the side of the streets and private roadways which abut the subdivision, land preparation, and landscape screens within the period established by the village.

(d) Community wastewater systems and community water systems constructed and approved as specified below prior to final plat approval. The wastewater treatment and discharge system and the water supply, collection, treatment, and storage shall be constructed to the satisfaction of the State of Nebraska. The wastewater collection system and the water distribution system shall be constructed to the satisfaction of the Board. The Board may as an

option accept a certification from a registered professional engineer that the wastewater collection system and the water distribution system was completed in accordance with the Village of Malcolm design standards.

(e) Individual wastewater systems and individual water well systems shall be complete in accordance with the rules and regulations of the Health Department at the time improvements are constructed on the lot.

(f) All other improvements listed in Chapter Minimum Improvements within the period established by the village not exceeding two years from final plat approval.

Whenever twenty-five, fifty, or seventy-five percent or more of the value of any required improvement, except street trees and landscape screens, within the final plat has been completed, the penal amount of the original bond or other security required for said improvement may be reduced by twenty-five, fifty, and seventy-five percent, respectively; provided that such reduction does not reduce the penal amount of the bond or other security to an amount less than one hundred ten percent (110%) of the estimated cost of the work remaining to be completed.

Filing Final Plat.

(a) A subdivider may file a final plat which conforms to a proposed preliminary plat or an approved preliminary plat which is still in effect as set out in Section Board Action on Preliminary Plat. The final plat shall be drawn in accordance with an accurate survey of the subdivision, the approved preliminary plat, and the standards for development set out in Chapter Development Standards hereof. The subdivider shall file with the Board the final plat and in addition thereto the number of copies required by the Board, together with the following:

(1) Prior to the approval of the final plat by the Board, the subdivider shall provide a statement from the County Treasurer's office showing that, according to their records, there are no delinquent taxes against the land within the proposed subdivision or any part thereof, and there are no liens for taxes which have been levied but which are not yet delinquent upon any buildable lot, street, or other property to be dedicated for public use, or outlot which is not reserved for future development. The subdivider shall also provide a statement from the County Treasurer's office showing that all special assessment installment payments are current as applied to said proposed subdivision or any part thereof. The village shall assume no responsibility for any tax or special assessment liability on the property to be subdivided, and approval of said final plat shall not be construed as either an approval or act as a waiver of the enforcement of all applicable statutes and ordinances with regard to the collection of taxes and special assessments on the proposed subdivided property or any part thereof. All taxes and special assessments must be paid in full on all real property dedicated in fee to a public use. The subdivider shall also obtain from the County Assessor's office a list of new account numbers for the purpose of assessment of taxes against all buildable lots and outlots not reserved for future development within the proposed subdivision.

(2) In the event of any proposed dedication for public use, a certificate of title or a title opinion issued to or for the benefit and protection of the village, showing all parties whose consent is necessary to pass clear title for the land being subdivided and dedicated, together with the nature of their interests therein, shall be furnished. Such proof of title shall be in a form acceptable to the Village Attorney. Any subsequent change affecting ownership of the proposed

subdivision or any part thereof shall be made only upon the prompt notification and certification to the village of said change in ownership. The village shall assume no responsibility for any title problem with said proposed subdivision or any part thereof, and approval of said final plat shall not be construed as approval of the title of the proposed subdivision or any part thereof.

(3) Whenever property is subdivided with the intention that it will have a use other than permitted by the district in which such property is located as designated on the then existing Malcolm zoning district maps, such use shall be stated. No final plat shall be approved unless or until it complies with Malcolm Zoning Regulations.

(b) If the time period between the effective date of the approved preliminary plat and the date the final plat is submitted exceeds five years and the required improvements have not been installed pursuant to a written authorization from the Board, the subdivider may, prior to preparing the final plat, request a written opinion from the Board as to whether the conditions of approval and the approved preliminary plat are still in compliance with the subdivision ordinance, design standards, and required improvements. The Board shall submit to the subdivider a written response indicating whether the conditions of approval and the approved preliminary plat are still in compliance with the current subdivision ordinance, design standards, and required improvements. In the preliminary plat is not in compliance, the Board shall list the items of noncompliance and may require that a new preliminary plat be submitted by the subdivider pursuant to all of the provisions of this title.

Final Plat Fee.

At the time of filing the final plat for processing, the subdivider shall pay the following fees:

- (a) Filing fee of \$100.00;
- (b) Unit fee of \$10.00 per lot to a maximum unit fee of \$1,000.00.

Action Required on Final Plat.

(a) Upon receipt of the final plat, the Board shall examine said plat for conformity and compliance with the approved or proposed preliminary plat and any requirements imposed as a condition for the acceptance of the final plat.

(b) Upon receipt of the final plat and required documents to be submitted therewith, the Board, or its designees, shall check surveying data, plans, profiles, and specifications of improvements, certificates of dedication, acceptance of dedication, and such other matters as require checking to ensure compliance with the provisions of this title.

(c) The final plat shall be presented to the Board after acceptance of the preliminary plat by the Board. If the Board finds that the final plat conforms to the approved preliminary plat and all amendments thereto, the Board shall adopt a resolution approving such final plat and setting forth all conditions of approval and the amount of all bonds, escrow or security agreements necessary to insure installation of all required improvements. The chairman of the Board shall sign the final plat, thereby indicating that the final plat has received the approval of the Board and it conforms to the approved preliminary plat and the requirements of this title and that all approved offers of dedication are accepted. If the final plat does not substantially conform to the approved preliminary plat the Board shall disapprove the final plat. The Board shall approve a

final plat if it substantially conforms to the requirements of this title applicable at the time of the approval of the preliminary plat.

(d) Any aggrieved person may appeal any action of the Board to the Board by filing notice of an appeal with the Village Clerk within fourteen days following the action by the Board. If the Board approves a final plat after the appeal of the denial of such a plat by the Board, no further action shall be required by the Board to approve such a plat. After approval thereof by the Board, the plat shall be signed by the Chairman of the Board. Thereafter, such plat shall be processed in accordance with the procedures set forth in the following Section.

Final Plat Filed With Register of Deeds.

No plat shall be filed for record or recorded in the office of the Register of Deeds of Lancaster County, and no lot shall be sold from such plat unless and until:

- (a) Such plat has been approved by the Board;
- (b) Provision for the installation and construction of all required minimum improvements as provided in the Section titled Requisites for Final Plat Approval have been fulfilled.
- (c) The subdivider has submitted to the Village Clerk the recording fee.

Thereafter, the approved final plat and a copy of the accepting resolution certified by the Village Clerk, along with all required agreements, shall be filed and recorded in the office of the Register of Deeds of Lancaster County, Nebraska. Thereupon such final plat shall be equivalent to and operate as a deed in fee simple to the Village or Lancaster County or other applicable utility or governmental entity from the owner of all streets, alleys, public ways and grounds, and of such portions of land as herein set apart for public and village use. The Village Clerk shall have the responsibility for transmitting to the office of the Register of Deeds the approved final plat, a certified copy of the resolution accepting said final plat, and any other data that must be recorded. The Village Clerk shall ascertain the amount of the recording fees due the Register of Deeds and notify the subdivider.

Subdivided Land Included Within Corporate Limits.

All subdivisions now or hereafter laid out adjoining or contiguous to the corporate limits of the Village may be included within the corporate limits as provided in Neb. Rev. Stat. §15-106, and annexed by ordinance of the Village Board, to be and become thereupon a part of such Village for all purposes whatsoever and the inhabitants of such addition shall be entitled to all the rights and privileges and subject to all laws, ordinances, rules and regulations of the Village.

Storm Drain Responsibilities.

The subdivider shall be responsible for the entire cost and expense for the construction of all storm drain systems; provided, however, that the Village, through the Board, may agree to contribute to the storm drain system for plats located within the Village limits, or to be annexed with the final plat approval. Village contributions shall be limited to the available funds appropriated for such purposes in the current fiscal year's budget; provided if requests for such subsidies exceed available funds appropriated for such purposes, the Board may establish by resolution, a system of priorities upon which to base village contributions. The dollar amount of village participation for a particular subdivision shall be certified by the Board prior to the date of

approval of the final plat of such subdivision and shall be set forth in the Board resolution approving such final plat. The village's agreement to make such a contribution shall lapse if the storm drains are not constructed by the subdivider within two years after the date of approval of the final plat of the subdivision. The subdivider shall be responsible for the installation and maintenance of open ditches for surface drainage where permitted.

Wastewater Collector Responsibilities.

The subdivider shall be responsible for the entire cost and expense for the construction of all waste-water collector systems; provided, however, if the collector serves other land upstream beyond the subdivision, the village may agree to contribute to the cost of the system. This contribution is only available to plats located within the village limits or annexed with final plat approval. The dollar amount of village participation for a particular subdivision shall be certified to the Board prior to the date of approval of the final plat of such subdivision and shall be set forth in the Board resolution approving such final plat. The village's agreement to make such a contribution shall lapse if the construction is not completed by the subdivider within two years after the date of approval of the final plat of the subdivision.

Water Main Responsibilities.

The subdivider shall be responsible for the entire cost and expense for the construction of all water main systems; provided, however, if the village requires a larger main for the village's feeder main network, then the village may pay the difference in cost between the size pipe system required for the larger feeder main network and the size pipe system that would be required by the design standards to serve the subdivision. This contribution is only available to plats located within the village limits or annexed with final plat approval. The dollar amount of village participation for a particular subdivision shall be certified by the Board prior to the date of approval of the final plat of such subdivision and shall be set forth in the Board resolution approving such final plat. The village's agreement to make such a contribution shall lapse if the construction is not completed by the subdivider within two years after the date of acceptance of the final plat of the subdivision.

Subdivision of Land Within Flood Plain.

There shall be no platting or subdivision of land allowed by the village within the area defined as a flood plain.

Responsibilities for Street Improvements.

The subdivider shall be responsible for the entire cost and expense of all streets within the subdivision.

Survey Errors.

In the event that a survey error is found at any time after the filing of the final plat with the Register of Deeds, the subdivider shall be notified by the Board. Thereafter, the subdivider shall immediately proceed to cause the survey error to be corrected. Building permits on any or all of the lots within the subdivision may be withheld and the village may take such other action

is deems appropriate to obtain the correction of the survey error. The subdivider shall submit to the Board a corrected final plat, an explanation letter setting forth the corrections, and a fee of \$100.00. The Board shall review the information and prepare a report and recommendations. Thereafter, a copy of the corrected plat, the letter of explanation, the report and recommendations of the Board shall be transmitted to the Village Attorney and the Village Clerk. The Village Attorney shall prepare a resolution approving and accepting the corrected final plat and voiding the plat with the survey error. The Board may then approve and accept the corrected final plat. After such approval, the Village Clerk shall then file the resolution approving and accepting the corrected final plat and the approved and corrected final plat in the office of the Register of Deeds. The recording fee shall be paid in advance by the subdivider and submitted to the Village Clerk. The name of the corrected final plat shall be "A corrected plat of (the name of the said subdivision)." The word "replat" shall not be used. The corrected plat shall comply with Section Final Plat of this code, and the conditions of the original plat as approved by the Village.

Vacation of Plat (Voiding).

The owner of any subdivision or plat may file a request to vacate all or a portion of such subdivision or plat. The Board shall review the request. The Board may then set forth conditions it deems appropriate and approve the vacation. After the vacation is approved by the village, the Village Clerk shall then file the ordinance approving the vacation in the office of the Register of Deeds. Thereupon, the previous subdivision or plat shall be voided. The recording fee shall be paid in advance by the owner and submitted to the Village Clerk.

PRELIMINARY PLAT

Information on a Preliminary Plat.

The preliminary plat shall be accurately and legibly drawn to a scale that clearly shows all pertinent information required in this chapter. The proposed layout and design of all the features of the subdivision shall conform to this title and to the design standards adopted by the village.

The following required information shall be identified and shown on the preliminary plat:

- (a) Name of the subdivision. The name of the subdivision shall not duplicate or approximate the name of an existing subdivision within Lancaster County unless the subdivision is adjacent to that existing subdivision and is an expansion thereof. The distinction shall be made by adding the suffix "1st addition" to the first duplication of the name, and then continuing in sequence.
- (b) North arrow, scale of drawing, date prepared, the sheet number and total number of sheets included within each set of the preliminary plat submittal.
- (c) Contour lines based on NAVD 1988 and at sufficient intervals, not to exceed five feet, to duplicate adequately the existing and proposed topography and land form within and adjacent to the subdivision. The scaled distance between contour lines shall not exceed 200 feet.
- (d) Existing and proposed streets and private roadways within and adjacent thereto. This shall include the right-of-way and pavement width, tangent length, the centerline radius of each curve and its interior angle, the angle of intersection with all other streets and private roadways and the name or number of each.

Where the preliminary plat submitted covers only a portion of the subdivider's tract, a sketch of the prospective future street system of the unsubmitted part of the tract shall be furnished; and the street system of the part being platted shall be considered in connection with the proper projection of streets into the portion of the tract not being presently platted.

(e) All lot lines and their dimensions. The dimensions along curvilinear lines shall be noted as being either chord or arc length.

(f) Lot and block numbers and outlot letters with the total number of each. All lots shall be numbered in sequence beginning with the number one and continuing consecutively through each block with no omission or duplication. All blocks shall be numbered in the same manner. Outlots shall be assigned an alphabetical letter beginning with the letter "A" and continuing through the alphabet. Areas, except streets, to be dedicated or reserved for public or private parks or other public areas shall be outlots.

(g) Areas for schools, parks, playgrounds, fire stations, libraries, and other common areas for public use, along with any requested consideration for such areas.

(h) The proposed method of providing wastewater collector service to each lot:

(1) If a public or community wastewater collector system is proposed, the size, direction of flow, location of the wastewater collectors, manholes, necessary extensions of the system within or beyond the limits of the subdivision to connect to the village's existing wastewater collector system or to the community wastewater treatment facility, and the location of the community wastewater treatment facility.

(2) If the use of individual wastewater systems is permitted, pursuant to the Wastewater Disposal section of this title, and a septic tank system is proposed, soil and percolation data and plans which show the location of one main subsurface disposal field for each lot which is proposed to be served by a septic tank system, are required. Where the subdivider will permit individual sewage lagoons and the lot area is three acres or more, percolation tests and the location of the subsurface disposal field are not required.

(i) The proposed method of providing water supply to each lot:

(1) If a public or community water system or rural water district is proposed, the location and size of all water mains, hydrants, and necessary extensions of the system within or beyond the limits of the subdivision to connect to the existing water mains or to the community well.

(2) If a community water system other than a rural water district is proposed, data on the quantity and quality of the water shall be obtained from one or more test wells within the immediate vicinity of the proposed water supply well.

(3) If an individual water well system for each lot is proposed, data on the quantity and quality of the water shall be obtained from test wells which shall be drilled on the ratio of one to each ten acres on a grid system. Where geological and hydrological data and sodium and chloride tests are available and the results are satisfactory to the health department, the test wells may be waved.

(4) The results of the preliminary tests required above shall in no way be construed to constitute a guarantee by the city of the quantity or quality of water to individual lots in the proposed subdivision, and the data obtained from these tests shall not be used to imply that an adequate quantity or acceptable quality of water is available in the proposed subdivision.

(j) The location and size of all existing wastewater collectors and wastewater treatment facilities, storm drains, culverts, water mains and fire hydrants, power lines, cables, and other underground structures within or adjacent to the subdivision.

(k) The location, width, and purpose of all existing easements within or adjacent to the subdivision.

(l) The location of all existing and proposed sidewalks, pedestrian ways, and bikeways with required easements and setbacks.

(m) The location of all existing structures and buildings within and adjacent to the subdivision, their existing and proposed use.

(n) A certified accurate boundary survey showing sufficient linear, angular, and curve data to determine the bearing and length of all boundary lines of the subdivision, a legal description thereof, and the number of acres therein. (This survey shall be field measured and shall mathematically close with an error of not more than one in twenty-five thousand (1/25,000).) This survey shall also locate and identify all section corners and section lines. Where the subdivision abuts an existing plat or other surveyed tracts, the distances, angles, and bearing of any common lines shall be shown; and any differences along common lines of the original survey and the survey of this subdivision shall be noted.

(o) A certificate for the signature of the chairman of the Board in a form approved by the Board.

Information on or Accompanying a Preliminary Plat.

The following required information shall be identified and shown on the preliminary plat or on accompanying sheets:

(a) Centerline profiles in NAVD 1988 of all existing and proposed streets and private roadways within and adjacent to the subdivision. The profile shall show points of intersection with all other streets and private roadways, stationing, the existing ground surface elevations, the proposed street grades, the length of vertical curves between changes in grade, and the profiles and horizontal alignment of temporary dead-end streets extending 300 feet beyond the limits of the subdivision.

(b) A drainage study as necessary to show the drainage through the subdivision and how the subdivider will provide for run off without flooding building areas.

(c) If requested by the Village, a landscape plan to show trees to be retained or planted in the subdivision and landscape screens to buffer adjacent zones.

Additional Required Information.

Accompanying the preliminary plat submittal, the following information shall be submitted in a statement from the subdivider:

(a) Any interest the subdivider has in the land surrounding the preliminary plat and the nature of such interest;

(b) All requests to be submitted to the village for use permits, special use permits, planned unit developments, changes of zone, and vacations which are required to complete the development;

(c) The name, telephone number, and mailing address of the subdivider, any other person

the subdivider may want informed of the preliminary plat process, and any person authorized to act on the subdivider's behalf;

(d) All deviations from this title and the adopted design standards shall be set forth, reasons given for each deviation, reasons given on how the proposal meets the intent of this title, and why the proposal should be accepted.

Development Within Floodplain.

There shall be no development within the floodplain.

FINAL PLAT

Form of Final Plat.

(a) The size of each sheet of said final plat shall be sixteen by twenty-two inches. All lots and, wherever practicable, blocks in their entirety, shall be shown on one sheet.

(b) Said final plat shall be accurately, clearly, and legibly drawn in black waterproof India ink or photographed upon tracing cloth or mylar which is a minimum of three thousandths (.003) of an inch thick or its equivalent. Affidavits, certificates, and acknowledgments shall be legibly lettered or printed upon the final plat with opaque ink. Signatures shall be in black opaque ink.

(c) A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of at least one-half inch.

(d) The final plat shall be drawn to one of the following scales: 1 inch equals 20 feet, 1 inch equals 30 feet, 1 inch equals 40 feet, 1 inch equals 50 feet, 1 inch equals 60 feet, 1 inch equals 100 feet, or any other scale proposed by the subdivider with the approval of the Board. The scale selected shall be sufficient to show all required information clearly, and enough sheets shall be used to accomplish this end.

(e) If more than one sheet is used, the particular number of the sheet and the total number of sheets comprising the final plat shall be stated on each of the sheets; and the relationship to each adjoining sheet shall be clearly shown. If more than two sheets are used, an index sheet the same size as required above shall be included showing, at whatever scale is necessary, the entire subdivision with an indication by the use of dotted lines of the component areas which are shown on the other sheets.

(f) The boundary of the subdivision shall be clearly identified on the final plat. All lines shown on the final plat which do not constitute a part of the subdivision itself shall be clearly distinguishable from those lines which are a part of the subdivision, and any area enclosed by such lines shall be labeled, "not a part of this subdivision."

Certificates and Acknowledgments on Final Plat.

The final plat shall show the following:

- (a) Owners' acknowledgment and offer of dedication, if any;
- (b) Certificate of the surveyor;
- (c) Certificate of approval by the Board and acceptance of the offer of dedication;
- (d) All affidavits, certificates, acknowledgments, endorsements, dedications, and notarial seals as are required by law and the provisions of this title, shall be as approved by the Village

Attorney.

Data Required on a Final Plat.

(a) The final plat shall be accurately and legibly drawn and shall show the following:

(1) All survey and mathematical information with sufficient linear, angular, and curve data necessary to locate all existing and placed monuments and stakes, and to locate and retrace all lots, blocks, and parcels within the subdivision, and the boundary of the subdivision. Where the land being subdivided abuts on an existing plat, the distances, angles, and bearing of all common lines and the street centerline points shall be shown and any differences in measurements so noted.

(2) All dimensions on the final plat shall be to the nearest one-hundredth (.01) of a foot wide with such other information necessary to reproduce the final plat on the ground.

(3) Lot, outlot, and block lines. All such lines shall be shown and dimensioned.

(i) Where such lines are curved at street intersections, the length of tangents shall be shown.

(ii) Where such lines abut curvilinear streets, chord or arc distances shall be shown and noted.

(iii) All angles of deflection or bearings of such lines other than those which are at right angles to the centerline of a street or on a radial line of a curved street.

(4) Lot, outlot, and block identity. Within each block all lots shall be numbered in sequence, beginning with the number one and continuing consecutively throughout each block with no omission or duplication. All blocks shall be assigned an alphabetical letter beginning with the letter "A" and continuing consecutively through the alphabet.

(5) Areas to be dedicated or reserved for public use. For streets, private roadways, and other public ways within and adjacent to the subdivision, the location, name, centerline, centerline radius, length, and interior angles of horizontal curves, tangent length, and width. All areas shall be located and identified which are to be dedicated or reserved for public use, including park land and other public areas. All such parcels shall be outlots except streets dedicated to the public use from those parcels to be privately owned but reserved for public use.

(6) Location, width, and purpose of all required easements for storm drains, overland stormwater flow routes, flood corridors, detention/retention facilities, wastewater collectors, water mains, other public utilities, and other easements for public use.

(7) The elevations of any building or structure along flow routes indicating that no opening in the building or structure is subject to flooding at the post development flow route elevations.

(8) The location and identification of all section corners, section lines, monuments and stakes found and placed. The boundary lines shall be located in reference to existing official monuments. Describe the stakes, monuments, or other evidence used to determine the boundaries of the subdivision.

(9) The number of acres, the total number of lots and outlots within the subdivision, and the lot area in square feet for each lot and outlot.

(b) The following data shall be shown on each sheet of the final plat:

(1) The name of the subdivision. The use of first (1st), second (2nd), third (3rd),

etc., for additions or subdivisions shall be made in sequence but only if the final plat is located adjacent to a plat with the same name.

(2) Scale.

(3) North arrow.

(4) Sheet number and the total number of sheets comprising the final plat.

(5) The name and number of the preliminary plat upon which the final plat is based. This information shall appear directly beneath the name of the final plat.

Additional Information Required.

Accompanying the final plat submittal, the following information shall be submitted:

(a) A statement from the subdivider indicating:

(1) Any interest the subdivider has in the land surrounding the final plat and the nature of such interest.

(2) All requests to be submitted to the village for use permits, special use permits, planned unit developments, changes of zone, and vacations which are required to complete the development.

(3) The name, telephone number, mailing address of the subdivider, record owner, and any other person the subdivider may want informed of the final plat process, and any person who has the authorization to act on behalf of the subdivider.

(b) Street profiles that show existing ground surface elevations based on a current field survey, the curb grades, and the lengths of all vertical curves of the streets within the final plat which are to be dedicated to the public. The grades shall be in accordance with the minimum standards of the village and, upon acceptance by the village, shall become the official established grades.

Survey Requirements.

(a) A land survey is required to support data furnished on the final plat, and this survey shall conform to all requirements set forth in this section. The survey shall tie into the state plan coordinate system. All angles and dimensions shown on the plat shall be field measured. The survey of the centerline of all streets within the plat and the periphery of the plat shall mathematically close with an error of not more than one in twenty-five thousand ($1/25,000$). The final plat shall include a certificate signed by a registered land surveyor certifying that he has accurately surveyed the subdivision and attesting to the accuracy of the survey, the correct location of all permanent survey monuments shown, and that the lots, block, streets, alleys, public ways and grounds are staked and marked as herein required. The surveyor's certificate shall include a metes and bounds traverse description of the land being subdivided and the number of acres included. The surveyor's name, land surveying registration number, address, and if applicable, firm name shall appear below his signature; however, the letters of the firm name shall be no larger than those used within the surveyor's certificate and shall not appear elsewhere on the final plat.

(b) The land surveyor who performs the survey and certifies the final plat shall be obligated to place all of the following monuments and stakes in the subdivision and show the same on the final plat:

(1) A permanent monument at each of the final plat corners of the periphery of the subdivision.

(2) A permanent monument on the centerline of each street within the final plat or abutting thereon, at each street intersection, at the intersection of each street and railroad right-of-way, and at each point of tangency and curvature.

(3) A permanent metal stake shall be installed designating lot corners and block corners within the subdivision. However, to facilitate grading and installation of utilities, the surveyor must be relieved temporarily from placing permanent metal stakes designating lot and block corners and may be allowed to initially place temporary metal stakes to designate all block corners, points of tangency and curvature along the periphery of each block, and the centerline of proposed water main, wastewater collector, and storm drain easements upon the following terms and conditions:

(i) That the subdivider file a bond with the village in an amount and form approved by the village attorney to insure compliance with the permanent staking requirements of this section.

(ii) That the subdivider enter into an agreement with the village that all the permanent staking requirements of this section shall be met prior to the construction on or the conveyance of any lot shown on the final plat.

(4) Should conditions exist that prohibit the placing of monuments or stakes on the line or if necessary building construction would remove the monument or stake, off-set marking may be permitted; provided, however, that the exact set-off courses and distances are shown on the final plat.

(c) The length, size, material, and approximate depth of all monuments and metal stakes placed in making the survey shall be designated by the Board.

DEVELOPMENT STANDARDS

General Requirements and Minimum Standards.

The general requirements and minimum standards of design and development set forth in this chapter are hereby adopted as the minimum requirements and standards to which a subdivision and plat thereof must conform prior to approval. All rules, regulations, and design standards referred to herein shall be adopted and amended by the Board by resolution, within ninety days after the effective date of this ordinance, and filed with the Village Clerk.

Conformity to the Comprehensive Plan.

The subdivision shall conform to and be in harmony with the comprehensive plan.

Relation to Adjacent Street System.

The streets in a subdivision shall be aligned horizontally and vertically with existing streets adjacent to or lying near the subdivision. Where there are no adjoining subdivisions in existence at the time of subdivision review, proper projection of streets from the subdivision into adjacent land shall be provided by the subdivider. If topographic conditions make said continuation, projection, or width impractical, an exception to this section may be made by the

village. All streets within and abutting the subdivision shall be of a width not less than the minimum requirements for streets established in this chapter.

Street and Other Public Way Widths.

(a) The width of all rights-of-way shall conform to the widths prescribed herein and shall be determined pursuant to the comprehensive plan.

(b) The minimum right-of-way widths shall be as set out in the Table at the end of this chapter.

Street and Utility Location.

The location of major streets shall conform to the comprehensive plan. The location and arrangement of streets and alleys shall be such as to provide reasonable access to adjoining property and facilitate the platting of adjoining property. Wastewater collectors, storm drains, and water mains shall be designated and constructed to connect to the existing appropriate facilities and reasonably accessible to adjoining property.

Dead-end Streets.

Permanent dead-end streets must be specifically approved by the village. All permanent dead-end streets shall have a sixty-foot minimum radius turnaround, except the turnaround may be modified when the dead-end street is a continuation of a temporary dead-end street and access to the street is not desirable and is not required for the lots in the proposed subdivision. Dead-end streets shall not have more than a potential of forty dwelling units nor be longer than 1,000 feet as measured from the centerline of the intersected street on a direct line to the farthest point of the cul-de-sac.

Alleys.

Alley may be provided in a residential block to meet neighborhood design and only if in the best interest of the public. Alleys may be required in the rear of business lots.

Streets Adjoining Unsubdivided Property.

Dedication of half-width streets is discouraged and will not be approved unless it is in the public interest to do so or it is an extension of an existing platted street. When streets within a subdivision adjoin unsubdivided property, a half-street at least thirty feet in width may be dedicated to the public. Lots abutting on said dedicated half-street shall be designated as outlots and be nonbuildable until the remainder of the street is dedicated to the public; except buildings may be constructed upon lots that front both a half-street and a full-width street, provided that access is to the full-width street. Whenever the unsubdivided property becomes subdivided and adjoins a half-street, the remainder of the street shall be dedicated.

Sidewalks.

Concrete sidewalks shall be constructed in accordance with District Regulations as approved in Village Ordinance No. 2001-3.

Utility Installations.

Provisions shall be made in accordance with the Chapter Procedure for Processing Subdivisions of this title for the installation of street surfacing; ornamental street lights; the installation of a complete system of sanitary sewers, including the extensions of the sanitary sewer to the appropriate existing public sanitary sewer; a complete system of storm sewers, including the extensions to the appropriate existing storm sewer or to a point where the storm sewer can be properly discharged; and a complete system of water mains, including extensions from the appropriate existing public water main to the subdivisions.

Drainage.

The area to be subdivided shall be designated and laid out so as to provide proper and sufficient drainage. The storm drain system shall adequately drain the subdivision and shall be constructed to allow the storm water to flow by gravity from the subdivision to an adequate outlet.

Unless waived by the Board, provisions shall be made to limit the peak rate of storm water discharged from the subdivision in accordance with design standards.

Building area shall be protected from storm water from a 100-year storm when such building area is adjacent to an open drainage channel, overland flow route, or detention/retention facility.

Street Names.

All public streets and private roadways shall be named or numbered in conformance with the following:

- (a) Where they are continuations of existing streets, the existing street name shall be used.
- (b) Proposed street names shall not duplicate or approximate phonetically the name of any existing street in the Village of Malcolm or its environs.
- (c) Diagonal or curvilinear streets shall be named.
- (d) The names or designation of cul-de-sacs shall be given the suffix "Circle," "Court," "Place," or "Bay."

Easements.

Easements shall be provided and dedicated where necessary for wires, cables, conduits, fixtures and equipment for distribution of electric power, wastewater collectors, storm drains, overland stormwater flow routes, sidewalks, pedestrian ways, bikeways, private roadways, and water mains at such locations and widths as determined by the village and as appropriate for efficient and affordable design. The width of easements required for public wastewater collectors, storm drains, and/or water mains shall be as specified and as reasonable for such purpose. It is the policy of the village to locate all necessary utilities in the right-of-way or in easements abutting rear or side lot lines, except on double frontage lots. Deviations from this policy may be made when it is demonstrated that the utility is necessary and no practical alternative location exists. Easements shall be provided along each side of a stream, watercourse, or river for the purpose of establishing a minimum flood corridor or a surface drainage course within the flood plain along that stream, watercourse, or river when the area adjacent thereto is

being subdivided; such easements shall be of a width deemed necessary by the village. The easement is for the purpose of widening, deepening, sloping, improving, cleaning, or protecting the stream, watercourse or river for drainage purposes. Said easement shall be provided in appropriate locations as determined by the village for the purpose of permitting the flow and storage of flood water. Minimum flood corridors shall be preserved and dedicated along drainage ways as necessary.

In any dedication of an easement, the village may prohibit or restrict buildings, fences, driveways and other improvements; may enter for construction, reconstruction, replacement, repair, operation, and maintenance purposes; and will be held harmless for the cost of replacement or damage to any improvement or vegetation within the easement and may make any other appropriate or necessary requirements.

Pedestrian Way.

A pedestrian way may be required where needed for pedestrian traffic.

Block Sizes.

(a) Block lengths shall not exceed 1,320 feet between cross-streets except where a major street, other man-made barrier, lake, or other natural barrier forms one boundary of a block.

(b) At the sole determination of the village, the 1,320 feet maximum block length may be increased if substantially different zoning or land use forms one boundary of the block.

Lot.

(a) Minimum lot width and area requirements shall conform to the zoning ordinance of this code.

(b) The lot arrangement and design of the subdivision shall be such that all lots shall provide satisfactory and desirable building sites, properly related to topography and the character of the surrounding development.

(c) The side lines of any lot shall be at right angles to the street or radial, if the street is curved, except where a variation will provide a better street and lot layout.

(d) Residential corner lots shall be wider than other residential lots to the extent necessary to permit the establishment of front yards along both of the abutting streets.

(e) Every lot shall front upon and have access to a public street, except:

(1) Lots located in the Agriculture, Industrial Park and Residential zoning districts may front upon and take access to a private roadway if said lots are located within an approved industrial park, community unit plan or a planned unit development.

(2) Lots located in other zoning districts may front upon and take access to private roadway if said private roadway has been approved either in connection with a use permit or with a subdivision of property in conformance with all the requirements of this title.

(f) Residential lots proposed to be made servient to pedestrian way easements and adjacent residential lots shall be of sufficient width to provide the additional required setback between the residence and the pedestrian way, plus the five foot wide pedestrian way easement.

Underground Utilities.

All utilities, including electrical distribution systems, communications systems, television antenna systems, and street lighting distribution systems shall be placed underground throughout the subdivision, if compatible with then-existing feeder and distribution systems servicing or located in the subdivision unless waived by the Board for good cause and in accord with existing neighborhoods.

Parks, Fire Stations, Libraries, Bikeways, Easement Along Streams, and Other Public Areas.

In subdividing property, consideration shall be given to suitable areas for schools, parks, playgrounds, fire stations, libraries, and other common areas for public use in conformance with the comprehensive plan.

Character of Development.

Where the subdivision contains sewers, sewage treatment plants, water supply systems, park area, street trees or other physical facilities necessary or desirable for the welfare of the area and which are of common use or benefit and which the village does not maintain, provisions shall be made for the proper and continuous maintenance and supervision of the facilities by the lot owners in the subdivision. All such maintenance agreements shall be incorporated in covenants and restrictions in deeds to the subdivided property and shall be submitted to the village for its approval prior to inclusion in the deeds.

Development of Land Within Flood Plain.

There shall be no platting or subdivision of land allowed by the village within the area defined as a flood plain.

Land Grading.

No person shall engage in the grading or disturbance of any land greater than two acres in size without first submitting a drainage and grading plan setting forth the requirements of the design standards applicable to stormwater management, erosion, and sedimentation control and obtaining approval of said plan. Any person who engages in the grading or disturbance of any land in violation of the provisions of this section shall be subject to an order to cease and desist such grading work.

Earth moving shall be kept to a minimum to protect and preserve the existing trees and grasses and to keep erosion to a minimum. Graded and otherwise disturbed land shall be stabilized to prevent erosion. Trees that are to remain shall be protected to prevent damage to them during construction and development of the subdivision.

Table

Classification	Width
Collector Streets	72 feet
Local Streets:	
Commercial, agricultural, or industrial zoning district	66 or 72 feet (In accordance with design standards)
Residential	60 feet
Cul-de-sacs:	
Residential	60-foot radius
Commercial, industrial, or agricultural	66- or 72-foot radius (In accordance with design standards)
Alleys	16 feet
Pedestrian ways	5-foot easement for the sidewalk
Bikeways	14-foot easement

MINIMUM IMPROVEMENTS

General Requirements.

The items listed in this chapter shall be the minimum improvements required in a subdivision. These minimum improvements shall conform to and be constructed in conformance with the design standards approved by the village, other sections of the Malcolm Municipal Code, and the standard specifications of the village. The subdivider, his successors and assigns, shall be responsible for the entire cost and expense of the minimum improvements unless indicated otherwise in this title.

Street Improvements.

All streets, alleys, public ways, and rights-of-way shall be graded to their full width and brought to the approved grade; provided, the village may wave, modify, or delay this requirement in order to save existing trees. All streets abutting and within a new subdivision shall be paved with curbs and gutters if the street is within the village limits or if the subdivision will be annexed with the approval of the subdivision. If not within the village and not annexed, the

streets shall be surfaced with crushed rock or its equivalent, or paved.

Sidewalks.

Concrete sidewalks shall be constructed to the specifications set forth in this code in pedestrian ways and on both sides of all streets within the subdivision and on the side of the streets abutting the subdivision, except as otherwise provided in this title. The sidewalk requirement may be modified or waived in all or in part of a subdivision where all lots in the subdivision contain an area of one or more acres.

Water Supply.

(a) New subdivisions within the corporate limits of the village or within the future urban area as designated in the comprehensive plan shall have a water distribution system constructed in conformance with the water main design standards of the village. Inside the corporate limits, where the village water supply is reasonably accessible to the subdivision, the village water distribution system shall be extended to enable each lot to make a supply connection in accordance with the Board. Outside of the corporate limits, the community water distribution system shall be extended to enable each lot within the subdivision to make a supply connection to a community water system. If the subdivision is annexed and the village water supply becomes available to individual lots within a subdivision, those lots shall be connected to the village water supply. Fire hydrants shall be installed in compliance with the water main design standards, in sufficient quantity and size to provide adequate protection for each lot within the subdivision as determined by the fire department regardless of the type of water supply furnished to the subdivision.

(b) In all subdivisions beyond the future urban area as designated in the comprehensive plan, individual water well systems or a community water system shall be installed in such a manner that an adequate supply of potable water is available to every lot within the subdivision.

(c) In any subdivision where a community water system other than a rural water district is used, the subdivider, his successors and assigns, shall enter into an agreement with the village whereby the operation and maintenance of the community water system shall be in compliance with the rules and regulations for public water supply systems of the State of Nebraska, a permit to operate the system has been received from the State of Nebraska, and the operator of the system possesses a certificate of competency issued by the State of Nebraska.

Wastewater Disposal.

(a) All subdivisions within the corporate limits of the village or within the future urban area designated in the comprehensive plan shall have a wastewater collection system constructed in accordance with the design standards of the village. All subdivisions located within the corporate limits of the village must connect to the village wastewater collection system if the system is reasonably accessible. The village wastewater collection system shall be extended by the developer to enable each lot to make a connection in accordance with the Malcolm Municipal Code. The community wastewater collection system shall be extended to enable each lot not having reasonable access to the village wastewater collection system to make a connection to a community wastewater system. However, as soon as the village wastewater collection system is

available, each lot shall be connected to the village wastewater collection system.

(b) In any subdivision beyond the village limits or the future urban area as designated in the comprehensive plan, where more than four lots of three acres in size or less are created for building purposes, a community wastewater system shall be constructed to serve all the lots within the subdivision.

(c) In any subdivision, other than those designated in (b) above, located beyond the village limits or the future urban areas as designated in the comprehensive plan, individual wastewater systems may be permitted if each disposal system is in conformance with this code and is approved by the Health Department.

(d) In any subdivision where a community wastewater system is required, the subdivider, his successors and assigns, shall enter into an agreement with the village, whereby the operation and maintenance of the community wastewater system shall be in compliance with the rules and regulations of wastewater treatment works of the State of Nebraska, a discharge permit has been received from the State of Nebraska, and the operator of the system has been trained to operate the system and possesses a certificate of competency issued by the State of Nebraska.

Drainage.

Storm drain pipes, ditch liners, and other drainage facilities shall be installed as per the approved drainage study and as required for.

Land Preparation and Grading.

Land shall be prepared and graded to meet all Federal and state guidelines, rules and regulations and in accordance with the best environmental practices. Any cut, fill, and compaction of land within, and if applicable, adjacent to the subdivision, shall be accomplished in accordance with design standards of the village and subject to the approval of the Board. No person shall engage in the grading or disturbance of any land greater than two acres in size without first submitting a drainage and grading plan setting forth the requirements of the design standards applicable to stormwater management, erosion, and sedimentation control and obtaining approval of the said plan. Any person who engages in the grading or disturbance of any land in violation of the provisions contained in this section shall be subject to an order to cease and desist such grading work. To control erosion and sedimentation during and after land preparation, the subdivider, his successors and assigns shall provide for disturbing only those trees, shrubs, and grasses that must be removed by construction; installing required sediment basins and diversion dikes before disturbing the land that drains into them; and temporarily stabilizing each segment of graded or otherwise disturbed land by seeding and mulching or by other approved method. As land preparation is completed, the subdivider, his successors and assigns shall permanently stabilize each segment with perennial vegetation and structural measures. Diversion dikes and sediment basins shall be leveled after areas that drain into them are stabilized, and permanent vegetation shall be established in those areas. Sediment basins that are to be retained for storm water detention shall be seeded to permanent vegetation no later than nine months after completion of the sediment basins and shall be permanently maintained by the subdivider or his successors and assigns. The land shall be graded and shaped as per the approved grading plan.

Street Lighting.

Street lighting shall be constructed in collector and local streets and private roadways within the subdivision and on the side of the streets and private roadways which abut the subdivision, with an underground connection to the electrical system in accordance with the illumination requirements and design standards of the Lincoln Electric System. This requirement may be modified or waived in subdivisions outside the corporate limits that are not annexed to the village if appropriate to the subdivision and said subdivision is not urban residential in character.

Landscape Screens.

Landscape screens as required by the village shall be installed at the subdivider's expense. The installation of the landscape screens shall be under the direction and subject to the approval of the Board.

Street Name Signs.

The design and location of all street signs designating the name of streets and private roadways shall be approved by the Board.

ENFORCEMENT**Modification of Requirements**

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual condition that the strict application of the requirements contained in these regulations would result in actual difficulties or substantial hardship or injustice or to accommodate innovative design criteria or an accommodation of affordability, the Board may vary or modify such requirements so that the subdivider may develop the property in a reasonable or economic manner, but so that at the same time, the public welfare and interests of the village and surrounding area are protected and the general intent and spirit of these regulations are preserved. Any such proposed modification of the requirements contained in these regulations shall first be submitted to the Board for its recommendations and report. The Board shall hold at least one public hearing before submitting its recommendations and report. Notice of the Board's hearing shall be provided pursuant to Section Hearing on Preliminary Plat of this title. The minimum improvements set forth in the chapter, Minimum Improvements, shall be required unless specifically and individually waived by the Board.

Review.

The Board shall review the land subdivision ordinance two years from the date of the adoption hereof and biennially thereafter for the purpose of evaluating its effectiveness and making recommendations as to possible amendments. Thirty days prior to each review, notice shall be sent to all village department heads in order that they may provide comments on the administration of this title. Review by the Board shall in no way affect the validity of this ordinance, nor any portion hereof.

Penalty.

Any person upon whom a duty is placed by the provisions of this title who fails, neglects, or refuses to perform such duty or who shall violate any of the provisions of this title, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceed \$100.00. Each day that a violation of this chapter continues shall constitute a distinct offense and shall be punishable as such.

Sediment in Public Right-of-Way; Notice to Remove; Penalty.

In addition to the penalty provided in Section Penalty, any person responsible for sediment deposited upon any street, alley, sidewalk, public way or public ground within the Village as a result of runoff from a building or development site shall remove the same within a reasonable period of time as shall be required by notice signed by the Village clerk or Village attorney or his or her authorized representative and served personally or by certified mail upon such person responsible for the sediment deposit. Whenever the person responsible for sediment deposited upon any street, alley, sidewalk, public way, or public ground within the Village refuses or neglects to remove the same after receiving notice as provided herein, it shall be the duty of the Board or his or her designated representative to cause the same to be removed and the expense of the removal shall be recoverable from the person responsible in an action at law.